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Strike 3 Holdings, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP
address 70.95.253.196,

Defendant.

Case Number:

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT - DEMAND FOR
JURY TRIAL**

Plaintiff, Strike 3 Holdings, LLC (“Strike 3” or “Plaintiff”), brings this
complaint against Defendant, John Doe subscriber assigned IP address
70.95.253.196 (“Defendant”), and alleges as follows:

Introduction

1. This is a case about the ongoing and wholesale copyright
infringement of Plaintiff’s motion pictures by Defendant, currently known only by
an IP address.

2. Plaintiff is the owner of award-winning, critically acclaimed adult
motion pictures.

3. Strike 3’s motion pictures are distributed through the *Blacked*, *Tushy*,
Vixen, *Tushy Raw* and *Blacked Raw* adult websites and DVDs. With millions of

1 unique visitors to its websites each month, the brands are famous for redefining
2 adult content, creating high-end, artistic, and performer-inspiring motion pictures
3 produced with a Hollywood style budget and quality.

4 4. Defendant is, in a word, stealing these works on a grand scale. Using
5 the BitTorrent protocol, Defendant is committing rampant and wholesale
6 copyright infringement by downloading Strike 3's motion pictures as well as
7 distributing them to others. Defendant did not infringe just one or two of Strike
8 3's motion pictures. Rather, Defendant has been recorded infringing 38 movies
9 over an extended period of time.

10 5. Although Defendant attempted to hide this theft by infringing
11 Plaintiff's content anonymously, Defendant's Internet Service Provider ("ISP"),
12 Spectrum, can identify Defendant through his or her IP address 70.95.253.196.

13 6. In an effort to conserve Federal judicial resources, Strike 3 originally
14 moved to discover Defendant's identity utilizing a state court procedure in Florida
15 where Strike 3's infringement detection servers are located. Defendant objected
16 asserting that the action is more properly litigated in the federal court of his or her
17 domicile. Because Plaintiff is amenable to litigating the matter in either forum,
18 this suit was initiated.

19 7. This is a civil action seeking damages under the United States
20 Copyright Act of 1976, *as amended*, 17 U.S.C. §§ 101 et seq. (the "Copyright
21 Act").

22 **Jurisdiction and Venue**

23 8. This Court has subject matter jurisdiction over this action pursuant to
24 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (jurisdiction over
25 copyright actions).

26 9. This Court has personal jurisdiction over Defendant because
27 Defendant used an Internet Protocol address ("IP address") traced to a physical
28 address located within this District to commit copyright infringement. Therefore:

1 (i) Defendant committed the tortious conduct alleged in this Complaint in this
2 State; (ii) Defendant resides in this State and/or; (iii) Defendant has engaged in
3 substantial – and not isolated – business activity in this State.

4 10. Plaintiff used IP address geolocation technology by Maxmind Inc.
5 (“Maxmind”), an industry-leading provider of IP address intelligence and online
6 fraud detection tools, to determine that Defendant’s IP address traced to a physical
7 address in this District. Over 5,000 companies, along with United States federal
8 and state law enforcement, use Maxmind’s GeoIP data to locate Internet visitors,
9 perform analytics, enforce digital rights, and efficiently route Internet traffic.

10 11. To ensure that Defendant’s IP address accurately traced to this
11 District, Plaintiff inputted Defendant’s IP address into Maxmind’s GeoIP database
12 twice: first when it learned of the infringement and again, just prior to filing this
13 lawsuit.

14 12. Pursuant to 28 U.S.C. § 1391(b) and (c), venue is proper in this
15 district because: (i) a substantial part of the events or omissions giving rise to the
16 claims occurred in this District; and, (ii) the Defendant resides (and therefore can
17 be found) in this District and resides in this State. Additionally, venue is proper in
18 this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because
19 Defendant or Defendant’s agent resides or may be found in this District.

20 **Parties**

21 13. Plaintiff, Strike 3 is a Delaware limited liability company located at
22 2140 S. Dupont Hwy, Camden, DE.

23 14. Plaintiff currently can only identify Defendant by his or her IP
24 address. Defendant’s IP address is 70.95.253.196. Defendant’s name and address
25 can be provided by Defendant’s Internet Service Provider.

26 **Factual Background**

27 ***Plaintiff’s Award-Winning Copyrights***

28 15. Strike 3’s subscription-based websites proudly boast a paid

1 subscriber base that is one of the highest of any adult-content sites in the world.
2 Strike 3 also licenses its motion pictures to popular broadcasters and Strike 3's
3 motion pictures are the number one selling adult DVDs in the United States.

4 16. Strike 3's motion pictures and websites have won numerous awards,
5 such as "best cinematography," "best new studio," and "adult site of the year."

6 17. Strike 3's motion pictures have had positive global impact, leading
7 more adult studios to invest in better content, higher pay for performers, and to
8 treat each performer with respect and like an artist.

9 18. Unfortunately, like a large number of other makers of motion picture
10 and television works, Strike 3 is the victim of mass Internet piracy. Often
11 appearing among the most infringed popular entertainment content on torrent
12 websites, Strike 3's motion pictures are among the most pirated content in the
13 world.

14 ***Defendant Used the BitTorrent File Distribution Network***
15 ***to Infringe Plaintiff's Copyrights***

16 19. BitTorrent is a system designed to quickly distribute large files over
17 the Internet. Instead of downloading a file, such as a movie, from a single source,
18 BitTorrent users are able to connect to the computers of other BitTorrent users in
19 order to simultaneously download and upload pieces of the file from and to other
20 users.

21 20. BitTorrent's popularity stems from the ability of users to directly
22 interact with each other to distribute a large file without creating a heavy load on
23 any individual source computer and/or network. It enables Plaintiff's motion
24 pictures, which are often filmed in state of the art 4kHD, to be transferred quickly
25 and efficiently.

26 21. To share a movie within the BitTorrent network, a user first uses
27 BitTorrent software to create a .torrent file from the original digital media file.
28 This process breaks the original digital media file down into numerous pieces.

1 22. The entire movie file being shared has a hash value (*i.e.*, the “File
2 Hash”). A hash value is an alpha-numeric value of a fixed length that uniquely
3 identifies data.

4 23. Hash values are not arbitrarily assigned to data merely for
5 identification purposes, but rather are the product of a cryptographic algorithm
6 applied to the data itself. As such, while two identical sets of data will produce
7 the same cryptographic hash value, any change to the underlying data – no matter
8 how small – will change the cryptographic hash value that correlates to it.

9 24. To find and re-assemble the pieces of the digital media file, *i.e.*, to
10 download the file using BitTorrent, a user must obtain the .torrent file for the
11 specific file that has been broken down into pieces.

12 25. Each .torrent file contains important metadata with respect to the
13 pieces of the file. When this data is put into the cryptographic algorithm, it results
14 in a hash value called the “Info Hash.”

15 26. The “Info Hash” is the data that the BitTorrent protocol uses to
16 identify and locate the other pieces of the desired file (in this case, the desired file
17 is the respective file for the infringing motion pictures that are the subject of this
18 action) across the BitTorrent network.

19 27. Using the Info Hash in the metadata of a .torrent file, a user may
20 collect all the pieces of the digital media file that correlates with the specific
21 .torrent file.

22 28. Once a user downloads all of the pieces of that digital media file from
23 other BitTorrent users, the digital media file is automatically reassembled into its
24 original form, ready for playing.

25 29. Plaintiff has developed, owns, and operates an infringement detection
26 system, named “VXN Scan.”

27 30. Using VXN Scan, Plaintiff discovered that Defendant used the
28 BitTorrent file network to illegally download and distribute Plaintiff’s copyrighted

1 motion pictures.

2 31. To explain, while Defendant was using the BitTorrent file
3 distribution network, VXN Scan established direct TCP/IP connections with
4 Defendant's IP address.

5 32. VXN Scan downloaded from Defendant one or more pieces of
6 numerous digital media files.

7 33. Plaintiff identified these pieces as portions of infringing copies of
8 Strike 3's motion pictures.

9 34. To explain, the VXN Scan system first searched for and obtained
10 .torrent files claiming to be infringing copies of Plaintiff's works, and then
11 downloaded complete copies of the digital media files that correlate to those
12 .torrent files.

13 35. Plaintiff then compared the completed digital media files to
14 Plaintiff's copyrighted works to determine whether they are infringing copies of
15 one of Plaintiff's copyrighted works.

16 36. The digital media files have been verified to contain a digital copy of
17 a motion picture that is identical (or, alternatively, strikingly similar or
18 substantially similar) to Plaintiff's corresponding original copyrighted Works.

19 37. VXN Scan then used the "Info Hash" value, contained within the
20 metadata of the .torrent file correlated with a digital media file that was
21 determined to be identical (or substantially similar) to a copyrighted work, to
22 download a piece (or pieces) of the same digital media file from Defendant using
23 the BitTorrent network.

24 38. At no point did VXN Scan upload content to any BitTorrent user.
25 Indeed, it is incapable of doing so.

26 39. The VXN Scan captured transactions from Defendant sharing
27 specific pieces of 38 digital media files that have been determined to be identical
28 (or substantially similar) to a copyrighted work(s) that Plaintiff owns.

1 40. VNX Scan recorded each transaction in a PCAP file.

2 41. VNX Scan recorded multiple transactions in this matter.

3 42. For each work infringed a single transaction is listed on Exhibit A.

4 43. For each transaction listed, Exhibit A sets forth the Universal Time
5 Coordinated (UTC) time and date of each transaction, along with (1) the Info
6 Hash value obtained from the metadata of the corresponding .torrent file that
7 formed the basis of the VNX Scan's request for data, and (2) the File Hash value
8 of the digital media file itself.

9 44. Exhibit A also sets forth relevant copyright information for each
10 work at issue: the date of publication, the date of registration, and the work's
11 copyright registration number. In a showing of good faith, Plaintiff has
12 intentionally omitted the title of the work from this public filing due to the adult
13 nature of its content, but can provide a version of Exhibit A containing the works'
14 titles to the Court or any party upon request.

15 45. Thus, Defendant downloaded, copied, and distributed Plaintiff's
16 Works without authorization.

17 46. Defendant's infringement was continuous and ongoing.

18 47. Plaintiff owns the copyrights to the Works and the Works have been
19 registered with the United States Copyright Office.

20 48. Plaintiff seeks statutory damages, attorneys' fees, and costs under
21 17 U.S.C. § 501 of the United States Copyright Act.

22 **COUNT I**

23 **Direct Copyright Infringement**

24 49. The allegations contained in paragraphs 1-48 are hereby re-alleged as
25 if fully set forth herein.

26 50. Plaintiff is the owner of the Works, which are each an original work
27 of authorship.

28 51. Defendant copied and distributed the constituent elements of

1 Plaintiff's Works using the BitTorrent protocol.

2 52. At no point in time did Plaintiff authorize, permit or consent to
3 Defendant's copying, distribution, performance and/or display of its Works,
4 expressly or otherwise.

5 53. As a result of the foregoing, Defendant violated Plaintiff's exclusive
6 right to:

7 (A) Reproduce its Works in copies, in violation of 17 U.S.C. §§ 106(1)
8 and 501;

9 (B) Distribute copies of the Works to the public by sale or other transfer
10 of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3)
11 and 501;

12 (C) Perform the copyrighted Works, in violation of 17 U.S.C. §§ 106(4)
13 and 501, by showing the Works' images in any sequence and/or by making the
14 sounds accompanying the Works' audible and transmitting said performance of
15 the work, by means of a device or process, to members of the public capable of
16 receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform"
17 and "publicly" perform); and

18 (D) Display the copyrighted Works, in violation of 17 U.S.C. §§ 106(5)
19 and 501, by showing individual images of the works non-sequentially and
20 transmitting said display of the works by means of a device or process to members
21 of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's
22 definition of "publicly" display).

23 54. Defendant's infringements were committed "willfully" within the
24 meaning of 17 U.S.C. § 504(c)(2).

25 WHEREFORE, Plaintiff respectfully requests that the Court:

26 (A) Permanently enjoin Defendant from continuing to infringe Plaintiff's
27 copyrighted Works;

28 (B) Order that Defendant delete and permanently remove the digital

1 media files relating to Plaintiff's Works from each of the computers under
2 Defendant's possession, custody or control;

3 (C) Order that Defendant delete and permanently remove the infringing
4 copies of the Works Defendant has on computers under Defendant's possession,
5 custody or control;

6 (D) Award Plaintiff statutory damages per infringed work pursuant to
7 17 U.S.C. § 504(a) and (c);

8 (E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to
9 17 U.S.C. § 505; and

10 (F) Grant Plaintiff any other and further relief this Court deems just and
11 proper.

12 DATED this 21st day of July, 2022.

13 **Law Offices of Lincoln Bandlow, PC**

14 s/ Lincoln D. Bandlow
15 Lincoln D. Bandlow
16 Attorney for Plaintiff
Strike3 Holdings, LLC

17 **DEMAND FOR A JURY TRIAL**

18 Plaintiff hereby demands a trial by jury on all issues so triable.

19 DATED this 21st day of July, 2022.

20 **Law Offices of Lincoln Bandlow, PC**

21 s/ Lincoln D. Bandlow
22 Lincoln D. Bandlow
23 Attorney for Plaintiff
24 Strike3 Holdings, LLC
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